

1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
2 provide the signed, original plea agreement to the Government not later than five business days
3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
5 before **June 30, 2008**.

6 4. The material witnesses, Jose Guadalupe Duarte-Ramirez, Sergio Frutis and Rafael
7 Felix-Garcia, in this case:

- 8 a. Are aliens with no lawful right to enter or remain in the United States;
- 9 b. Entered or attempted to enter the United States illegally on or about May 27,
10 2008;

11 c. Were found in rural terrain near the international border with Mexico and
12 were being guided by defendant, and defendant knew of the fact that they were aliens with no lawful
13 right to enter or remain in the United States;

14 d. Were paying or having others pay on their behalf unknown amounts to \$2,500
15 to others to be brought into the United States illegally and/or transported illegally to their destination
16 therein; and,

17 e. May be released and remanded immediately to the Department of Homeland
18 Security for return to their country of origin.

19 5. After the material witnesses are ordered released by the Court pursuant to this
20 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
21 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,
22 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

23 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
24 substantive evidence;

25 b. The United States may elicit hearsay testimony from arresting agents
26 regarding any statements made by the material witness(es) provided in discovery, and such testimony
27 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest

1 of (an) unavailable witness(es); and,

2 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
3 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted
4 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant
5 waives the right to confront and cross-examine the material witness(es) in this case.

6 6. By signing this stipulation and joint motion, defendant certifies that defendant has
7 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
8 further that defendant has discussed the terms of this stipulation and joint motion with defense
9 counsel and fully understands its meaning and effect.

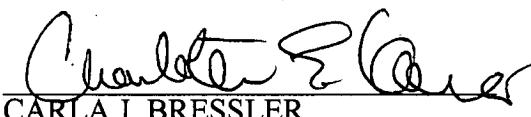
10 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
11 immediate release and remand of the above-named material witness(es) to the Department of
12 Homeland Security for return to their country of origin.

13 It is STIPULATED AND AGREED this date:

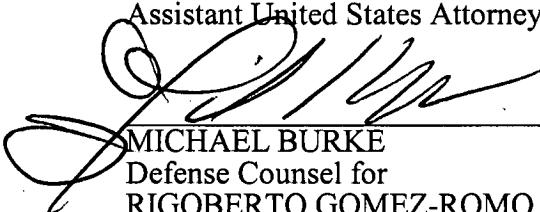
14 Respectfully submitted,

15 KAREN P. HEWITT
16 United States Attorney

17 Dated: 6/12/08.


CARLA J. BRESSLER
Assistant United States Attorney

18 Dated: 6/11/08.


MICHAEL BURKE
Defense Counsel for
RIGOBERTO GOMEZ-ROMO

22 Dated: 6/11/08.


RIGOBERTO GOMEZ-ROMO
Defendant

28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Rigoberto Gomez-Romo

ORDER

2 Upon joint application and motion of the parties, and for good cause shown,
3 **THE STIPULATION** is admitted into evidence, and,
4 **IT IS ORDERED** that the above-named material witness(es) be released and remanded
5 forthwith to the Department of Homeland Security for return to their country of origin.

SO ORDERED.

Dated:


United States Magistrate Judge